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ABSTRACT

The conceptual differences between the foundation program and educational needs approaches to the distribution of school funds are analyzed. Under the foundation approach, the state generally guarantees that, irrespective of local wealth, every child will have a minimum number of dollars expended on his education. In operation, the foundation program provides more educational resources to children in wealthy school districts and fewer resources to children in poor districts. A minimal definition of equality of educational opportunity is that the quality of a child's education should not depend upon where he happens to live. A recent California Supreme Court decision requires a rational educational finance scheme within the state. Several definitions of equality of educational opportunity are proposed: (1) minimum attainment, (2) leveling, (3) competition, (4) equal dollars per pupil, (5) maximum variance ratio, and (6) classification. (For related document, see Ed 058 473.) (Author/CK)

ED 058 482

The Foundation Program and Educational Needs

AA 000 786

Submitted to The President's Commission on School Finance

THIS IS ONE OF SEVERAL REPORTS PREPARED FOR THIS COMMISSION. TO AID IN OUR DELIBERATIONS, WE HAVE SOUGHT THE BEST QUALIFIED PEOPLE AND INSTITUTIONS TO CONDUCT THE MANY STUDY PROJECTS RELATING TO OUR BROAD MANDATE. COMMISSION STAFF MEMBERS HAVE ALSO PREPARED CERTAIN REPORTS.

WE ARE PUBLISHING THEM ALL SO THAT OTHERS MAY HAVE ACCESS TO THE SAME COMPREHENSIVE ANALYSIS OF THESE SUBJECTS THAT THE COMMISSION SOUGHT TO OBTAIN. IN OUR OWN FINAL REPORT WE WILL NOT BE ABLE TO ADDRESS IN DETAIL EVERY ASPECT OF EACH AREA STUDIED. BUT THOSE WHO SEEK ADDITIONAL INSIGHTS INTO THE COMPLEX PROBLEMS OF EDUCATION IN GENERAL AND SCHOOL FINANCE IN PARTICULAR WILL FIND MUCH CONTAINED IN THESE PROJECT REPORTS.

WE HAVE FOUND MUCH OF VALUE IN THEM FOR OUR OWN DELIBERATIONS. THE FACT THAT WE ARE NOW PUBLISHING THEM, HOWEVER, SHOULD IN NO SENSE BE VIEWED AS ENDORSEMENT OF ANY OR ALL OF THEIR FINDINGS AND CONCLUSIONS. THE COMMISSION HAS REVIEWED THIS REPORT AND THE OTHERS BUT HAS DRAWN ITS OWN CONCLUSIONS AND WILL OFFER ITS OWN RECOMMENDATIONS. THE FINAL REPORT OF THE COMMISSION MAY WELL BE AT VARIANCE WITH OR IN OPPOSITION TO VIEWS AND RECOMMENDATIONS CONTAINED IN THIS AND OTHER PROJECT REPORTS.

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THE FOUNDATION PROGRAM AND EDUCATIONAL NEEDS

A Conceptual Analysis

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A Paper Prepared for the President's Commission on School Finance
September 1971

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Introduction and Summary

The task of this paper is to analyze the conceptual differences between the foundation program and educational needs approaches to the distribution of school funds.

Under the foundation program approach, the state generally guarantees that, irrespective of local wealth, every child will have a minimum number of dollars expended on his education. In operation, the foundation program provides more educational resources to children in wealthy school districts and fewer to children in poor school districts.

A minimal definition of equality of educational opportunity is that (at least within a given state) the quality of a child's education should not depend upon where he happens to live, how wealthy the local school district is, or how highly his neighbors are willing to tax themselves for education. The foundation program does not satisfy even this definition of equality of educational opportunity since it guarantees only a minimal expenditure per pupil and conditions the availability of additional resources on local wealth.

The California Supreme Court in Serrano v. Priest on August 30, 1971, invalidated California's foundation program. It ruled that the substantial dependence on local property taxes and the resultant wide disparities in school revenue violate the equal protection clause of the Fourteenth Amendment. According to the Court, "this system conditions the full entitlement to [education] on wealth, classifies its recipients on the basis of their collective affluence and makes the quality of a child's education depend upon the resources of his school district and ultimately upon the

pocket-book of his parents." Thus, in California at least, the foundation program has been held to deny the equal protection of the laws because it conditions the availability of educational resources on non-educational factors.

The clear implication of the California decision is that it will require a rational educational finance scheme which, if it does not recognize educational need, at least does not irrationally allocate more resources to rich children solely because they live in a wealthy school district.

The concept of needs is analyzed and found wanting as a practical basis for allocating educational resources. It is found to be an open-ended concept which cannot be described in absolute terms. In its place, several definitions of equality of educational opportunity are proposed. These are: (1) minimum attainment; (2) leveling; (3) competition; (4) equal dollars per pupil; (5) maximum variance ratio; and (6) classification. The question is how to reform our school finance systems with a view toward guaranteeing equality of educational opportunity.

A. The Foundation Program

The majority of states currently employ a variation of the foundation program of state aid to local school districts. The foundation program stipulates a "satisfactory minimum offering," expressed in dollars per pupil, which shall be guaranteed to every student. When a locality cannot supply the minimum offering at the state-mandated local tax rate, the state makes up the deficiency. Conceptually, the foundation program has its roots in the writing of Ellwood P. Cubberley. In School Funds and Their Apportionment, written in 1905, Cubberley stated:

> Theoretically all the children of the state are equally important and are entitled to have the same advantages; practically this can never be quite true. The duty of the state is to secure for all as high a minimum of good instruction as is possible, but not to reduce all to this minimum; to equalize the advantages to all as nearly as can be done with the resources at hand; to place a premium on those local efforts which will enable communities to rise above the legal minimum as far as possible; and to encourage communities to extend their educational energies to new and desirable undertakings. [1]

The key elements of the foundation program are here--every child is to receive a minimum of good instruction but individual school districts are to be free to provide more than a minimum of good instruction.

In 1923, Strayer and Haig described their concept of the foundation program:

> There exists today and has existed for many years a movement which has come to be known as the "equalization of educational opportunity" or the "equalization of school support." These phrases are interpreted in various ways. In its most extreme form the interpretation is somewhat

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[1]Ellwood P. Cubberley, School Funds and Their Apportionment (New York: Teachers College, Columbia University, 1905, p. 17.

> as follows: The state should insure equal educational facilities to every child within its borders at a uniform effort throughout the state in terms of the burden of taxation; the tax burden of education should throughout the state be uniform in relation to tax-paying ability, and the provision for schools should be uniform in relation to the educable population desiring education. Most of the supporters of this proposition, however, would not preclude any particular community from offering at its own expense a particularly rich and costly educational program. They would insist that there be an adequate minimum offered everywhere, the expense of which should be considered a prior claim on the state's economic resources.[2]

Again, the key elements of the foundation program are here--every child is to have access to "equal educational opportunity" but communities are to be free to offer particularly rich and costly educational programs.

Basic thinking on the foundation program has not changed substantially to this day. In 1965, Harrison and McLoone wrote:

> Some may interpret the expression "equalization" as striving for the same level of expenditure in all school systems - as reducing the high and lifting the low. As used in educational finance, equalization does mean reducing the difference between the high and the low, especially where the low expenditure is due to insufficient resources. However, the foundation program concept seeks to reduce the difference by raising the level of support in areas of low wealth.[3]

The foundation program has failed to provide equality of educational opportunity for a variety of reasons.[4] The principal reason, of course,

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[2]George D. Strayer and Robert M. Haig, The Financing of Education in the State of New York (New York: MacMillan Co., 1923), p. 173.

[3]Forrest W. Harrison and Eugene P. McLoone, Profiles in School Support (Washington: Government Printing Office, 1965), p. 85.

[4]See generally: Charles S. Benson, The Cheerful Prospect (Boston: Houghton Mifflin Co., 1965.) and Arthur E. Wise, Rich Schools, Poor Schools (Chicago, University of Chicago Press, 1968.)

is conceptual--it is not designed to recognize differences in educational need. As well, in practice, it provides more educational resources to children from wealthy families and less to children from poor families. The foundation program is predicated on the belief that the state is responsible for guaranteeing a minimum of educational resources to each child, irrespective of the needs of children. Local school districts may, if they are willing and able, augment the amount of the foundation program.

The essence of the foundation program is that every child be guaranteed a "satisfactory" or "adequate" or "good" or "minimum" level of educational opportunity but that individual school districts be free to go beyond this level. The dual features of the foundation program are inherently contradictory to the goal of equality of educational opportunity. A school finance scheme which conditions the allocation of educational resources on anything but the needs of children, by definition, cannot provide equality of educational opportunity. From a statewide point of view, a school finance system which permits local school districts to augment funds based on local wealth or the vote of taxpayers, denies equal educational opportunity. In fact, because the foundation program makes the amount of money available for a child's education dependent upon the wealth of his community, it may result in a denial of equal protection of the laws and, hence, may be unconstitutional.

B. Equal Protection of the Law

The California Supreme Court, in Serrano v. Priest on August 30, 1971, found that California's public school financing system denies children the equal protection of the laws because it produces substantial disparities among school districts in the amount of revenue available for education. In the words of the Court:

> We are called upon to determine whether the California public school financing system,with its substantial dependence on local property taxes and resultant wide disparities in school revenue, violates the equal protection clause of the Fourteenth Amendment. We have determined that this funding scheme invidiously discriminates against the poor because it makes the quality of a child's education a function of the wealth of his parents and neighbors. Recognizing as we must that the right to an education in our public schools is a fundamental interest which cannot be conditioned on wealth, we can discern no compelling state purpose necessitating the present method of financing. We have concluded, therefore, that such a system cannot withstand constitutional challenge and must fall before the equal protection clause.[5]

The decision clearly invalidated California's system for financing public education. The Court did not indicate what would constitute a constitutional school finance plan. However, a careful reading of the Court's opinion may begin to reveal what would be permissible and impermissible.

The Court examined the current distribution of school revenues and found, for example, that Baldwin Park expended $577.49 per pupil, Pasadena, $840.19 and Beverly Hills $1,231.72. For the Court, "the source of these disparities is unmistakable: in Baldwin Park the assessed valuation per child totaled only $3,706; in Pasadena, assessed valuation

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[5]L. A. 29820, Super. Ct. No. 938254.

was $13,706; while in Beverly Hills, the corresponding figure was $50,885 -- a ratio of 1 to 4 to 13. Thus, the state grants are inadequate to offset the inequalities inherent in a financing system based on widely varying local tax bases." In other words, the operation of California's school finance plan, including its foundation program, is responsible for these inequities. Of course, in California as elsewhere, the foundation program is designed to supplement local taxes in order to provide only a "minimum amount of guaranteed support to all districts."

The California Court noted that "the United States Supreme Court has demonstrated a marked antipathy toward legislative classifications which discriminate on the basis of certain 'suspect' personal characteristics. One factor which has repeatedly come under close scrutiny of the high court is wealth." Concerning the implicit classification by district wealth, the Court said:

> To allot more educational dollars to the children of one district than to those of another merely because of the fortuitous presence of such property is to make the quality of a child's education dependent upon the location of private commercial and industrial establishments. Surely, this is to rely on the most irrelevant of factors as the basis for educational financing.

The Court thus found that the school financing system discriminates on the basis of the wealth of a district and its residents.

While the Court had substantial judicial precedent for finding wealth a suspect classification, it did not have judicial precedent for finding education a "fundamental interest." Such a finding was important for the theory which the Court was attempting to develop.

Previously, the fundamental interest concept had been applied only to the rights of defendants in criminal cases and voting rights. The Court relied upon a number of decisions which "while not legally controlling" are "persuasive in the factual description of the significance of learning." The classic expression of this position came in Brown v. Board of Education:

> Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, is a right which must be made available to all on equal terms.

These cases, together with the Court's own analysis of the importance of education, compelled it to treat education as a "fundamental interest."

The final step in the application of the "strict scrutiny" equal protection standard was a determination of whether the California school financing scheme as presently structured was necessary to achieve a "compelling state interest." Concluding that it was not, the Court declared:

> The California public school financing system, as presented to us by plaintiffs' complaint supplemented by matters judicially noticed, since it deals intimately with education, obviously touches upon a fundamental interest. For the reasons we have explained in detail, this system conditions the full entitlement to such interest on wealth, classifies its recipients on the basis of their collective affluence and makes the quality of a child's education depend upon the resources of his school district and ultimately upon the

> pocket-book of his parents. We find that such financing system as presently constituted is not necessary to the attainment of any compelling state interest. Since it does not withstand the requisite "strict scrutiny," it denies to the plaintiffs and others similarly situated the equal protection of the laws.

In the course of the opinion, the Court disposed of an argument "that territorial uniformity in respect to the present financing system is not constitutionally required." "Where fundamental rights or suspect classifications are at stake," said the Court, "a state's general freedom to discriminate on a geographical basis will be significantly curtailed by the equal protection clause." In support of this interpretation, the Court first relied upon the school closing cases in which the U. S. Supreme Court invalidated efforts to shut schools in one part of a state while schools in other areas continued to operate. Secondly, the Court relied upon the reapportionment cases in which the U. S. Supreme Court held that accidents of geography and arbitrary boundary lines of local government can afford no ground for discrimination among a state's citizens. "If a voter's address may not determine the weight to which his ballot is entitled, surely it should not determine the quality of his child's education." Consequently, it would appear that school finance plans cannot have different effects solely because of geography. In other words, neither wealth nor geography is a permissible basis for classifying children for the purpose of determining how much is to be spent on their education.

What are the principles which emerge from this opinion which may hint at the characteristics of constitutional school finance schemes?

(1) The quality of a child's education may not be a function of the wealth of his parents, neighbors, or school district.

(2) The foundation program of public school support is unconstitutional.

(3) There must be an equitable distribution of the educational tax burden.

(4) The opportunity of an education is a right which must be made available to all on equal terms.

(5) The accidents of geography and the arbitrary boundary lines of local school districts can afford no ground for discrimination among the school children of a state.

In sum, a constitutional school finance scheme would apparently have to have the following characteristics:

(1) It would bring to bear all of a state's educational tax base on the education of all children in the public schools of that state.

(2) It would provide for equity both in educational taxation and in educational resource allocation.

(3) It would require that educational resource allocation not depend upon where a student lives, what his parental circumstances are, or how highly his neighbors value education.

(4) It would avoid the specious state/local distinction in the generation of educational revenues, for all taxes raised for education are, in fact, state taxes.

(5) It would accommodate a variety of educational resource allocation schemes and systems for educational taxation.

(6) Its essential characteristic would be that there be equity in the benefits and burdens of education.

C. The Foundation Principle, Resurrected

The underlying principle of the foundation program dies hard, however. Even modern school finance reformers hark back to the essence of the foundation program. Hence, even those who advocate full-state funding would wish to leave room for local "add-on's." The deficiency is seen in the power equalizing approach proposed by John E. Coons and his colleagues.[6]

Coons, Clune and Sugarman, at first glance, appear to be establishing a case for equal educational opportunity or at least equal educational expenditures. They propose a "no-wealth" principle of public school finance--"the quality of public education may not be a function of wealth other than the wealth of the state as a whole." They deem this principle so fundamental that they title it Proposition 1.

What would the no-wealth principle mean? It insists appropriately that educational quality not be made a product of local wealth differentials. However, it would continue to permit educational quality to vary from school district to school district. In fact, it would permit the very situation that exists today. Of course, they do not mean to continue the status quo. They would have the Supreme Court create the conditions wherein state legislatures could experiment with new systems, hopefully their own.

To get a clearer picture of their objectives, one must examine their specific proposal for a "power equalizing" system of public school finance. The total receipts of a state's education taxes would be equally available to all public school children, and ultimate responsibility for school

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[6]John E. Coons, William H. Clune III, and Stephen D. Sugarman, Private Wealth and Public Education (Cambridge: Belknap, 1970).

finance would be placed with the state. School districts, through the taxing mechanism, would be free to choose various amounts of the state's wealth by deciding how steeply they are willing to tax themselves. The system would leave school districts--rich and poor alike--free to select levels of spending for education while giving each district equal power to do so. Thus, for example, a community that chose to tax itself at the rate of 1 per cent might have available $400 per student, irrespective of the wealth of that community. A community that chose to tax itself at the rate of 2 per cent might have available $800 per student, again irrespective of the wealth of that community. The state in this scheme commits itself to the specified level of expenditure per student regardless of what is raised by the local tax. The state gives aid in exactly the amount that local resources are insufficient to reach the specified expenditure.

What the system equalizes is the burden that a community must bear for any given level of educational spending. It most certainly does not equalize educational resources for all students in a state, much less provide equal educational opportunity. The quality of a child's education continues to be subjected to a vote of his neighbors. And, in a power-equalized state, what is to prevent the rich from valuing education more highly than the poor?

They have struggled hard to preserve what they term "subsidiarity" in educational decision-making. By this concept they mean to reserve at least two kinds of decisions to local school districts--how much money is to be spent and how that money is to be spent. The commitment to subsidiarity leads them down a tortuous path: on page 1, "this book is about

equality of educational opportunity"; on page 203, "it seems permissible for a child to receive a better or worse offering in one district than in another." At the start, they seem to be concerned about equality of educational opportunity; along the way about equality of educational expenditures; further along the way about equality of educational tax burden; and, at the finish, about reserving to local voters the decision about how much money is to be spent on the education of their children. Ultimately, a hodgepodge not unlike the one we have today can be envisioned with perhaps some rich children and poor children gaining and others losing.

All of this is not to say that there should be a deadly uniformity in education. Subsidiarity with respect to decisions about educational personnel, school organization, and curriculum can be reserved to local school districts. What cannot be preserved, if there is to be an approach to equality of educational opportunity, is the right of local school districts to deny educational resources to children.

D. Educational Needs

The clear import of the California decision is that it should make possible rational educational finance schemes which, if they do not recognize educational needs, at least do not irrationally allocate more resources to rich children than to poor children.

The concept of "educational need," together with the related concepts of "individual differences" and "equality of educational opportunity" have long been part of educational jargon. The difficulty with these concepts is that they have rarely been suscepted to precise definition. The substantial rhetoric employing these terms has rarely been reduced to operational definition. The result is that the terms are ascribed a variety of meanings and the practical effect of these usages has been negligible.

A typical, fairly recent formulation of these interrelated ideas is as follows:

> Our kind of society demands the maximum development of individual potentialities at every level of ability.
>
> The goal of the American educational system is to enable every youngster to fulfill his potentialities, regardless of his race, creed, social standing or economic position.
>
> The traditional democratic invitation to each individual to achieve the best that is in him requires that we provide each youngster with the particular kind of education which will benefit him.[7]

The practical meaning of this formulation is that educational resources of whatever kind are appropriate be allocated to every student until he can no longer profit from them. Presumably, we identify the needs of each child, accommodate to his individual differences, and develop

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[7]John W. Gardner, Excellence: Can We Be Equal and Excellent Too? (New York: Harper and Row, 1961), pp.74-75.

the child to the fullest of his potentialities. One fatal shortcoming of this approach should be obvious--educational resources are limited. Therefore, among other difficulties, it is impossible to expend resources on every child until he can no longer profit from them.

Yet to what precisely does the term needs refer? Is it susceptible to precise definition? Diagnoses of a learner alone do not yield a determination of needs. In this connection, Ralph Tyler has said:

> Studies of the learner suggest educational objectives only when the information about the learner is compared with some desirable standards, some conception of acceptable norms, so that the difference between the present condition of the learner and the acceptable norm can be identified. This difference or gap is what is generally referred to as a need.[8]

In other words, someone, presumably a school official, must compare the current condition of the learner with a notion of an acceptable condition and apply appropriate educational resources to meet that "need." The hypothetical school official is constrained by a number of factors. First, educational resources are limited. Consequently, he must make choices among individual students. Secondly, he must make professional judgments about the efficacy of various instructional strategies. Thirdly, he or others, such as representatives of the school's community, must make value judgments about those needs which are to be met.

Some of the difficulties in connection with grappling with the concept of needs can be seen in the recent experience of the National Educational Finance Project. The investigators associated with the project

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[8]Ralph W. Tyler, Basic Principles of Curriculum and Instruction (Chicago: University of Chicago Press, 1950), p. 5.

endeavored to (1) identify or develop criteria for identifying the target population to be served, (2) develop accurate estimates of the number of persons in each target group, (3) indicate the nature of educational programs needed to meet the needs of each target group, ie., how they differ from the regular or basic educational program and (4) determine the cost differentials implicit in such programs.[9] The principle conceptual difficulty is with number (3) above. How does one ascertain "the needs of each target group" to be met? The list of needs of any group can be extended as the amount of resources increases. Conversely, the list must be contracted as the amount of resources decreases. How does one assess priorities among different target groups? In short, the concept of educational needs is an open-ended one and cannot be described in absolute terms. The problem of identifying the needs of each child to be met is coextensive with the problem of defining equality of educational opportunity.

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[9]Foreword to Dimensions of Educational Need, NEFP Volume 1, pp. vii-viii.

E. Equality of Educational Opportunity

With respect to educational resource allocation schemes, the following would appear to be constitutional in that that they are based solely on the characteristics of children (and their educational needs) and not on the wealth of their school districts or on their neighbors' willingness to vote for educational taxes.

While the foundation definition specifies a minimum in terms of educational resources, the minimum attainment definition specifies a mimimum in terms of educational outcomes. The minimum attainment standard requires that educational resources be allocated to every student until he reaches a specified level of attainment. Obviously, this standard requires far greater expenditures for some students than for others. Thus, for example, when a student's reading achievement falls below the norm for his grade, additional resources would be provided.

The foundation and minimum attainment definitions are expressed in terms of minima; other definitions go beyond minima. The leveling definition of equal educational opportunity requires that resources be allocated in inverse proportion to students' ability. This standard is based on the assumption that students should, as nearly as possible, leave school with an equal chance of success. Since some students are more able than others and/or come from home backgrounds which facilitate their education, the schools should attempt to diminish these differences by concentrating on the less advantaged students. To be sure, there are limits to the extent to which schooling can result in equal attainment for all. Nevertheless, the allocation of resources in inverse proportion to students'

ability would tend to result in equality of attainment.

While the leveling standard requires the allocation of educational resources in inverse proportion to students' ability, the competition definition requires their allocation in direct proportion. This standard assumes that students have different capacities to profit from instruction and that the more able a student is, the greater should be his access to educational resources. The equality demanded by this standard is equality in the competition for access to educational resources. The relevant basis for competition is ability and not wealth or geography.

The competition standard assumes that ability is a legitimate basis for a differential allocation of the amount of educational resources; the equal dollars per pupil definition assumes that ability is an illegitimate basis. The equal dollars per pupil definition requires that educational resources be allocated equally to all students. Which resources and how they are used, of course, vary with the "needs" of the individual.

An approximation to the equal dollars standard may be termed the maximum variance ratio definition. This standard requires that educational resources be allocated so that the maximum discrepancy in per pupil expenditures does not exceed a specified ratio. Thus, it might require that the maximum variation in per pupil expenditure be no more than one-and-a half to one.

The classification definition requires that what is regarded as a "suitable" level of support for a student of specified characteristics is suitable for that student wherever he lives within the state. The definition requires a categorization of students on the basis of ability and

interests. Thus, for example, if a six-hundred-dollar-a-year education is regarded suitable for college-bound students of average ability, then that amount should obtain throughout the state. Or, if a twelve-hundred-dollar-a-year education is suitable for disadvantaged students in the primary grades, then that is what should obtain statewide.

F. Conclusion

The foundation program and educational needs approaches to the distribution of school funds are clearly based on different assumptions about education and the state's role in education. The foundation program is concerned at best with inputs and guarantees of minimal inputs at that. The educational needs approach opens the way for consideration of educational outputs. The needs approach and the concept of equality of educational opportunity assume that the state has the responsibility for education. The foundation program assumes that the state has only a minimal degree of responsibility for education. From an educational viewpoint, the needs/equality of educational opportunity approach is the more enlightened. From a legal viewpoint, the foundation approach appears to be unconstitutional. From a legislative point of view, the question is how to reform our school finance systems along enlightened and constitutional lines.

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